

UNITED STATES DISTRICT COURT

for the

Northern District of New York

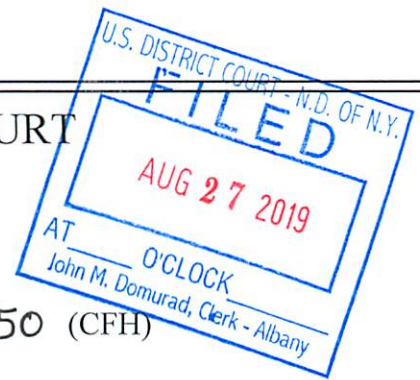
UNITED STATES OF AMERICA)

v.)

KEVIN NUGENT,)

Defendant.)

Case No. 19-MJ-550 (CFH)



CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the dates of August 15, 2019 through August 27, 2019, in the county of Albany in the Northern District of New York, the defendant violated:

Code Section

Title 18, United States Code,
Section 2422(b)

Offense Description

Using a facility of interstate commerce to persuade, induce, entice, and coerce, and attempt to persuade, induce, entice and coerce, an individual who has not attained the age of 18 years to engage in sexual activity for which any person can be charged with a criminal offense under New York State law

This criminal complaint is based on these facts:
Please see attached affidavit.

☒ Continued on the attached sheet.

Attested to by the Applicant in Accordance with
the Requirements of Rule 4.1 of the Federal
Rules of Criminal Procedure.

A handwritten signature in blue ink, appearing to be "B. Seymour".

Complainant's signature

FBI Special Agent Brian P. Seymour

Printed name and title

Sworn to before me and signed in my presence.

Date: August 27, 2019

A handwritten signature in blue ink, appearing to be "C. Hummel".

Judge's signature

City and State: Albany, NY

Hon. Christian F. Hummel, U.S. Magistrate Judge

Printed name and title

Affidavit in Support of a Criminal Complaint

I, Brian P. Seymour, having been first duly sworn, do hereby depose and state as follows:

1. I respectfully make this affidavit in support of a criminal complaint charging KEVIN NUGENT ("NUGENT"), age 41, of Halfmoon, New York, with using a facility of interstate commerce to persuade, induce, entice, and coerce, and attempt to persuade, induce, entice and coerce, an individual who has not attained the age of 18 years to engage in sexual activity for which any person can be charged with a criminal offense, in violation of Title 18, United States Code, Section 2422(b).

2. I am a Special Agent with the Federal Bureau of Investigation (FBI) and have been since September 2007. I am assigned to the Albany Division, Albany, New York, and previously worked in the Buffalo Division. I have investigated a variety of violent crimes, including in the areas of child exploitation, counter-terrorism and drug overdose deaths. I am currently investigating federal violations concerning child pornography and the sexual exploitation of children. I have gained experience regarding such crimes through training in seminars, classes, and everyday work related to conducting these types of investigations.

3. I am an investigative or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations of and to make arrests for offenses enumerated in Title 18, United States Code, Section 2516(1), including those involving the exploitation of a minor for sexual purposes in violation of Title 18, United States Code, Sections 2251(a) and 2422(b).

4. The statements contained in this affidavit are based upon my investigation, information provided by members of the FBI's Child Exploitation Task Force, and on my experience and training as a Special Agent. As this affidavit is being submitted for the limited

purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation, nor each text message that NUGENT sent to an undercover online profile I maintain (discussed below). I have set forth only the facts that I believe are necessary to establish probable cause to believe that NUGENT has violated Title 18, United States Code, Section 2422(b).

Basis for a Probable Cause Finding

5. Based on my training and experience, I know that Grindr is a social networking and online dating application that markets itself as “the world's largest social networking app for gay, bi, trans, and queer people,” according to its Internet home page (grindr.com). The Grindr mobile application makes use of a mobile device's geolocation feature, which allows users to locate other users who are nearby. Choosing a particular user's profile provides the options to chat, send pictures, and share one's precise location.

6. Based on my training and experience, I know that Kik Messenger, commonly known as “Kik,” to be an Internet-based messaging application. Kik allows for direct messaging between two or more users, and also allows for users to join chat groups that are organized by, among other things, geographic region and interests.

7. As part of my investigative duties, I maintain undercover profiles on Grindr and Kik.

8. My undercover Grindr profile bears the photographs of a young-looking female, pictured only from the chest down. The profile sets forth the age of the user as “99,” which is the maximum age possible on Grindr, and identifies the user as a “Trans Woman.” The profile includes the following message: “young trans looking for daddy. kik me <REDACTED>. I will not talk on here.”

9. My undercover Kik profile bears a photograph of a young-looking person of undetermined sex, pictured only from the mouth down, with no background photograph. While the picture is of an actual adult, the profile does not specify an age, or otherwise represent that the user is not a minor. The name for the profile is “Ryan R.”

10. On August 15, 2019, at approximately 6:38 a.m., a person with the Kik profile name of “Kevin Nugent,” and screen name “keveyquail” – which, as discussed below, was NUGENT – directly messaged me through Kik. I believe this person found my profile through my Grindr profile. I did not do anything to initiate the conversation. All communications with NUGENT were between me and him only.

11. At 6:38 a.m. on August 15, 2019, NUGENT wrote to my profile: “Hello.” At 8:27 a.m., I wrote back, “Hey.” A back-and-forth text conversation ensued:

NUGENT	From what I could tell you are very sexy and I would love to see more so...
Ryan R	So I'm not out yet and I live with my mom
NUGENT	Ok. I am single and I live alone. What are you seeking?
Ryan R	I'm younger dude alotta guys don't like that
NUGENT	If you want to chill with someone patient and experienced then I am willing to hang with you.
Ryan R	Ok
NUGENT	Man I would love to now
Ryan R	What
NUGENT	I'm horny and would love to spend time with you now
Ryan R	What would we do
NUGENT	Anything you want. I love to suck dick and...
Ryan R	Do u live near Albany
NUGENT	Halfmoon. And I have to go back that way for work around 2:15
NUGENT	<PHOTO OF ADULT PENIS>
Ryan R	I'm nervous.
Ryan R	I'm only 14 I know that's not cool
NUGENT	It's not cool if you talk about it
Ryan R	Wha
Ryan R	When I tell people I'm 14 they get mad at me

NUGENT	If you told someone we were hanging out then that would be a problem.
Ryan R	No way dude I can't let anyone know
NUGENT	So I will hang out with you
Ryan R	It's Ok if you want me to go away I will
NUGENT	Can you send me a pic?
Ryan R	Of what?
NUGENT	Surprise me
Ryan R	<PHOTO OF YOUNG-LOOKING PERSON OF UNDETERMINED GENDER FROM NECK DOWN LIFTING SHIRT UP.>
NUGENT	Sexy
NUGENT	Have you ever had your dick sucked?
Ryan R	No.
NUGENT	Where in Albany do you live? What do you want to do?
Ryan R	Actually noting Albany
NUGENT	Where are you?
Ryan R	Home
NUGENT	What city?
Ryan R	Menands
NUGENT	Oh. I work own there
NUGENT	If we were to hang out what do you want to do?
Ryan R	Well I haven't done much with a guy
NUGENT	Because I am crazy I am willing to sh
NUGENT	Show you the ropes
Ryan R	OK want would you to do to me lol
NUGENT	I would suck you, you suck me, and then we see what happens. I can be a little aggressive and will have you near the edge, in a good way

12. The text conversation over Kik between myself and NUGENT continued intermittently on August 15, 16 and 20. On August 21, 2019, the following conversation transpired at approximately 10:36 p.m.:

NUGENT	You ever send a dick pic?
Ryan R	No
Ryan R	U
NUGENT	I do have one but rather you do yours first
Ryan R	I'm not sure
Ryan R	Dude that scares the fuck out of me.
NUGENT	I have a lot more to lose than you. I am trying to figure out if you are real or...
Ryan R	Well I'm real

NUGENT	I get you are a real person but sending that pic will ease my mind. I will s end mine and I will delete yours right away.
Ryan R	I'm not ready for that besides this seems like I can get in trouble I think ur making me more nervous
NUGENT	Why would you get in trouble?
Ryan R	I'm not looking for trouble
Ryan R	With you
NUGENT	If I send mine will you send yours? What are you nervous about?
NUGENT	They are all the same just some arr bigger than others.
Ryan R	No I don't need a pic of ur dick
NUGENT	How big is yours?
Ryan R	Uh I guess to my big finger
NUGENT	I would love to take it all in my mouth

...

NUGENT	What is something you know you want to try?
Ryan R	Told you anything that doesn't hurt
NUGENT	Some things may hurt to start and then become quite pleasurable but ai know how to get you there
Ryan R	Like what
NUGENT	The biggest one is anal but you have to be open minded. I would start with plenty of lube, a finger, while sucking your dick.
Ryan R	Ok then what
NUGENT	Well that's going to make you cum si I don't know how much further we would get beyond that

...

NUGENT	You will be sucking my dick right proper though. You will learn to do it right.
Ryan R	R u gonna jam it down my throat
NUGENT	Just thinking about your lips around my cock is making me hard.
NUGENT	No I am going to instruct you on the proper way to do it.
Ryan R	Lol I'm glad
NUGENT	Daddy won't hurt his boy

13. Pursuant to the above Kik conversation, in the guise of the 14 year-old transgender child "Ryan R," I agreed to meet NUGENT in the vicinity of a Burger King in Albany County, New York, at 10:30 a.m. on August 27, 2019. NUGENT's communications continued to be

intermittently sexual in nature throughout the entire time I texted with him, and NUGENT attempted on at least three occasions to set up a meeting in person.

14. On August 27, 2019, at approximately 9:36 a.m., NUGENT arrived, alone, at the Burger King, and was arrested shortly thereafter, after walking into the restaurant.

15. Following his detention, NUGENT was provided his *Miranda* rights and chose to talk to law enforcement. NUGENT admitted to messaging “Ryan R” over Kik, and to driving to the Burger King for the purpose of “hanging out” with “Ryan R,” who he believed to be a 14 year-old transgender female child. NUGENT acknowledged that the purpose of meeting “Ryan R” was to travel back to NUGENT’s apartment, and possibly engaging in oral sex there with “Ryan R.” NUGENT stated that he knew what he was doing was illegal and wrong, and that he was sorry for his actions.

16. The acts NUGENT described in his Kik messages to “Ryan R” that he intended to engage in with the person whom he believed to be a 14-year-old transgender female child, as set forth above, would constitute, among others, the following crimes under New York State Penal Law:

A. New York State Penal Law § 130.30, rape in the second degree; and

B. New York State Penal Law § 130.45, criminal sex act in the second degree.

Conclusion

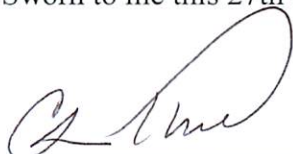
17. Based on the above information, I believe that probable cause exists that KEVIN NUGENT has violated Title 18, United States Code, Section 2422(b), which prohibits any person from using a facility of interstate commerce to persuade, induce, entice, and coerce, and attempt to persuade, induce, entice, and coerce, an individual who has not attained the age of 18 years, to engage in sexual activity for which any person can be charged with a criminal offense. I

respectfully request that a criminal complaint be issued pursuant to this violation of federal law.



Brian P. Seymour
Special Agent
Federal Bureau of Investigation

Sworn to me this 27th day of August 2019.



Hon. Christian F. Hummel
United States Magistrate Judge